

**State of California
California Regional Water Quality Control Board
Santa Ana Region**

March 18, 2022

ITEM: 12

SUBJECT: Executive Officer's Report

1. Status of the Implementation of the Cannabis Regulatory Program

Background: The statewide Cannabis Cultivation Program (Cannabis Program), put into effect on December 18, 2017, addresses potential water quality and quantity issues related to cannabis cultivation and protects beneficial uses of waters of the State of California. Program implementation is the responsibility of the regional Cannabis Units. This report provides an update on implementation of the Cannabis Program in the Santa Ana Region four years after inception and summarizes the activities of South Coast Cannabis Unit staff during that time.

The State Water Board adopted the Cannabis Cultivation General Order (WQ 2017-0023-DWQ) and Cannabis Policy – Principles and Guidelines for Cannabis Cultivation in 2017 (amended in 2019 by WQ 2019-0001-DWQ). The Cannabis Policy establishes requirements for the diversion and use of water, land disturbances, and discharges of waste related to cannabis cultivation. The requirements are intended to minimize deleterious effects of cannabis cultivation activities on fisheries, wildlife, and water quality; maintain healthy riparian corridors; and protect springs, wetlands, and aquatic habitat.

The South Coast Cannabis Unit is based in Riverside and serves the Santa Ana, Los Angeles, and San Diego Regional Water Quality Control Boards (Water Boards). The mission of the Cannabis Unit is to implement the Water Boards' Cannabis Cultivation Program by enrolling and regulating licensed cannabis cultivation operations, and by preparing enforcement actions against noncompliant and/or illicit cannabis cultivations.

Statewide Program Changes: In March 2020, normal workflow was impacted by the COVID-19 pandemic and, in compliance with guidance from the State Water Resources Control Board, South Coast Cannabis Unit staff began teleworking and limiting field inspections.

In July 2020, statewide program budget shortfalls resulted in an approximate 50% reduction of State and regional Cannabis Program staff. To address the shortfall in funds, of the five personnel working in the South Coast Cannabis Unit, three staff were redirected to other Santa Ana Water Board's programs that had vacancies.

Therefore, two staff remained in the South Coast Cannabis Unit serving the Santa Ana, Los Angeles, and San Diego Regional Water Boards.

In December 2020, the State and regional Water Boards Cannabis Cultivation Program Executive Oversight Committee produced a document, Summary Report and Recommendations to Improve Statewide Program Performance, in response to the Program's reduction in staff. The document provided several recommendations, at both the State and regional level, to reduce Cannabis Program scope and prioritize efforts to increase Cannabis Program enrollment and address adverse water quality and water supply impacts from illegal cultivation through enforcement.

In February 2022, the State Water Resources Control Board completed their review of the funding shortfall for the statewide Cannabis Program and determined that the resources could cover additional staff statewide to implement the Cannabis program. South Coast Cannabis Unit was provided one position, and this position is currently be filled. The program warrants more personnel resources to be able to fully implement the program.

Enrollment: The South Coast Cannabis Unit has received applications for coverage under the statewide Cannabis General Order (WQ 2017-0023-DWQ and WQ 2019-0001-DWQ) from 786 potential commercial cannabis cultivators in the Santa Ana, Los Angeles, and San Diego Regions, as of January 18, 2022. A Notice of Applicability (NOA) serves as proof of enrollment and coverage under the General Waste Discharge Requirements (WDRs) or Waiver of WDRs. NOAs have been issued to 666 of the 709 remaining active applicants in the three regions. Active applications include both issued NOAs and applications pending payment, review, and issuance; non-active applications were either withdrawn or terminated coverage.

The Santa Ana Region has received 96 total applications, 88 applications remain active, of which 42 came in the 2021 calendar year. NOAs have been issued to 78 facilities in the Santa Ana Region; 32 NOAs were issued in 2021. Among the 78 issued NOAs in the Santa Ana Region, 77% (60) are indoor cultivations and were issued a Waiver of WDRs, and 23% (18) are either Tier 1 (less than 1-acre of disturbed area) or Tier 2 (greater than 1-acre of disturbed area) outdoor cultivations. The Tier 1 and Tier 2 outdoor cultivations are all located in San Jacinto, except for one facility located in Hemet. Indoor cultivations are located in Santa Ana, Perris, Lake Elsinore, Jurupa Valley, Moreno Valley, San Bernardino, and San Jacinto.

Within the San Diego Region, 41 total applications have been submitted and 31 NOAs have been issued. Specifically, during the 2021 calendar year, five applications were submitted and three NOAs were issued in the San Diego Region. The applicants in the San Diego region are primarily located in the cities of San Diego, La Mesa, Oceanside, and Santa Ysabel. All, but one, of the enrollees in the San Diego Region are indoor cultivations issued a Waiver of WDRs. A single outdoor cultivation (Tier 2 – greater than 1-acre of disturbed area) is located in Temecula. The facility is

not yet operational but intends to containerize their waste and dispose of the waste through a permitted waste hauler. At this time, cannabis cultivation is not permitted in the unincorporated areas of San Diego County. However, in January 2021, the San Diego County Board of Supervisors began the process to amend the County Zoning Ordinance to allow for cannabis cultivation, among other cannabis related uses, and develop a new Cannabis Permitting Program for unincorporated San Diego County. Over the coming months a draft of new ordinances and regulations will be presented for consideration.

The Los Angeles Region hosts the largest number of enrolled cultivation operations – 557 NOAs issued – which is directly attributable to the large number of indoor cultivation permits issued by the cities of Los Angeles and Long Beach, among others in Los Angeles County. In the November 2020 General Election, voters in Ventura County passed ordinance Measure O. Measure O allows for commercial cultivation, processing, distribution, and sale of cannabis in pre-existing structures within unincorporated Ventura County. Measure O will allow for up to 500 acres for general cannabis cultivation and 100 acres for nursery cultivation within unincorporated Ventura County. The pre-existing structure requirement includes greenhouses that are classified as “outdoor” cultivations by the definitions in the Water Boards’ Cannabis Cultivation Policy. Since the adoption of Measure O, the South Coast Cannabis Unit has received 12 Tier 1 (less than 1-acre of disturbed area) or Tier 2 (greater than 1-acre of disturbed area) outdoor applications, of which the Unit has issued 10 Tier 1 or Tier 2 outdoor NOAs with WDRs in Ventura County. More applications and NOAs are expected during the upcoming year.

Many cities and counties in southern California continue to prohibit the commercial cultivation of cannabis. However, South Coast Cannabis Unit staff expect enrollments to continue to increase steadily over time as jurisdictions with existing ordinances continue to issue permits, and as other jurisdictions draft their own cultivation ordinances and regulations, as we saw in Ventura County and are seeing in San Diego County this year.

Unit staff regularly participate in public outreach events, give presentations at industry group meetings and conferences, and give presentations at local government meetings and regulatory conferences, in cooperation with other licensing and permitting agencies such as the Department of Cannabis Control (formed on July 1, 2021 by consolidating the Bureau of Cannabis Control within the Department of Consumer Affairs, the CalCannabis Cultivation Licensing Division of the Department of Food and Agriculture, and the Manufactured Cannabis Safety Branch of the Department of Public Health) and the California Department of Fish and Wildlife.

Compliance: As part of the recommendations in the December 2020 Executive Oversight Committee’s report to reduce the Cannabis Program’s scope, the South Coast Cannabis Unit was directed to de-prioritize compliance assessment inspections and enforcement of permitted cultivations enrolled in the Cannabis

General Order. No compliance assessment inspections have been conducted since March 2020.

In response to the increased number of outdoor Tier 1 or Tier 2 cultivations that were issued NOAs in 2021, particularly within the Santa Ana Region in San Jacinto, the South Coast Cannabis Unit plans to conduct a limited number of compliance assessment inspections in 2022, once the permitted facilities become operational. No compliance assessment inspections are planned for indoor cultivations, issued a Waiver of WDRs, until the Executive Oversight Committee reassess performance metrics and determine if changes are necessary.

Enforcement: Unauthorized discharge of waste and/or the diversion of surface water without an appropriate water right or small irrigation use permit documented by regional Cannabis Unit staff, are in violation of the Water Code and may be cause for civil administrative enforcement. Investigating unauthorized discharges of waste, including pesticides, nutrients, and sediment, as well as surface water diversions associated with cannabis cultivation in the South Coast Region, is the responsibility of the Cannabis Unit.

From January 2021 through January 2022, South Coast Regional Cannabis Unit staff, conducted 33 inspections at unpermitted cannabis cultivation sites and documented violations of California Water Code.

The inspections were conducted as part of criminal search warrants served primarily by other State agencies, the California Department of Fish and Wildlife and the Department of Cannabis Control, but also served by local law enforcement agencies, including county sheriff departments and county district attorney investigators. The unpermitted site inspections were conducted primarily in the San Diego Region where 32 of the 33 sites were located. One inspection was conducted in the Santa Ana Region in 2021.

Notice was provided to the landowners at all of the unpermitted sites inspected in 2021 in the form of a Notice of Violation and Site Inspection Report. Enforcement action is in process for the sites that represent the greatest threat to water quality, public health, or water supply, and/or are within priority watersheds defined by the South Coast Cannabis Unit for the Executive Oversight Committee in 2021. Enforcement action in process within the San Diego and Santa Ana regions includes voluntary site assessment and/or cleanup as a result of receiving a Notice of Violation and Cleanup and Abatement Order.

Inspections of illegal cultivations, within the parameters of the Executive Oversight Committee's recommendations, continue at a rate of two to three each month in the South Coast Region.

Under California law (Health and Safety Code [HSC] Sec. 11358), unlicensed cannabis cultivation is a misdemeanor criminal offense. Various environmental violations under the California Water Code (Water Code; CWC) and Fish and Wildlife Code are felony enhancements under HSC 11358, including CWC Sec. 13260 violations for discharge of waste without applying for the appropriate WDRs under the Cannabis Policy and General Order. The South Coast Cannabis Unit has achieved positive outcomes assisting prosecution teams in San Diego and Riverside Counties, including the prosecution of multiple felony cases involving defendants for cannabis cultivation related crimes involving Water Code Section 13260 violations where waste was discharged to the environment. According to the San Diego Deputy District Attorney, none of these cases would have been viable as felonies were it not for the Water Code violations brought about by the investigations by South Cannabis Unit staff. There remain many pending criminal cases involving defendants accused of illegal cannabis cultivation including environmental violations under the Water Code.

South Coast Cannabis Unit staff continue to actively participate in several ongoing joint-agency cooperative efforts to address illegal cultivation in areas where cannabis cultivation is prohibited. These include biweekly coordination meetings with the California Department of Fish and Wildlife, the San Diego County Environmental Protection Task Force, the San Diego Integrated Narcotics Task Force, the Riverside County Environmental Strike Force, and the Riverside County Cannabis Regulatory Task Force.

2. Quail Valley Septic to Sewer Advocacy Task Force Meeting

On February 22, 2022, the Quail Valley Septic to Sewer Advocacy Task Force met for the second time to discuss the status of the sewer projects managed through Eastern Municipal Water District and the funding opportunities for the remaining phases to provide sewer to Subareas 4 and 9. Subareas 4 and 9 of Quail Valley are prohibited from installing new septic systems in accordance with Resolution R8-2020-0004 due to the failure of a significant number of existing septic systems. The participants in the Task Force included the City of Menifee, Eastern Municipal Water District, Elsinore Valley Municipal Water District, Riverside County Flood Control District, Quail Valley Environmental Coalition, Quail Valley residents, and the Santa Ana Water Board.

In summary, the meeting discussed the portion of Subarea 9 that has been converted to sewer and the planned next phase to sewer Subarea 4. Funding opportunities were reviewed that led to conversations related to funding strategies. There are a few grant and low interest funding opportunities for the Quail Valley projects. As the funding partners determine what is required to pursue these funding sources, the Task Force will decide on timing and substance of support letters, setting up meetings with elected officials, and producing educational publications for outreach. Santa Ana Water Board Chair Murray and Board Member Scandura attended and provided their support for this challenging effort.

3. Public Meetings for the Former Ford Aeronutronics Site in Newport Beach

On Thursday, February 3, 2022, Santa Ana Water Board staff hosted a virtual community meeting regarding the volatile organic compounds (principally trichloroethene, a carcinogen), which is present in soil vapor beneath some residential and commercial properties at the former Ford Aeronutronics site in the City of Newport Beach. This was the eighth public meeting for this project since September 2018. The meeting was held from 6:30 to 8:00 pm using Zoom due to the increase in COVID-19 cases in Orange County. The meeting was also recorded and a link to the recording is available at <https://youtu.be/CfbEPsJ0Rkg>. The primary purposes of the meeting were to: (a) provide a project status update regarding recent environmental investigations and risk assessment work; (b) present potential remediation and mitigation strategies; and (c) discuss the project schedule.

The meeting was open to the public and included a presentation, followed by a question and answer session. The session was moderated by Tracy Craig of Craig Communications, Ford's communications consultant. Previous meetings were moderated by a representative from the State Water Board's Office of Public Participation, and they continue to be informed of public outreach activities. Craig Communications was also in charge of distributing notifications for the public meeting and facilitating the virtual platform. The total number of attendees for the meeting was 32, which included some consultants. In addition, the recording, which is available via the link above, has had 29 views since its posting.

The meeting started with a 30-minute presentation by Jessica Law of the Site Cleanup Program, using Power Point slides. The presentation was followed by an expert panel discussion. The panel included Jessica Law of the Santa Ana Water Board, Dr. Amanda Palumbo of Cal EPA's Office of Environmental Health Hazard Assessment (OEHHA), and three representatives of Wood (the technical consultant to Ford): Mike Barnes, Daniela Hamann-Nazaroff, and Jane Parkin-Kullmann.

Attendees could type their questions using the chat feature in Zoom. At the end of the presentation, the questions were read aloud and answered by the panel member most knowledgeable in the subject. Jessica Law and Mike Barnes addressed general and project-specific questions. Dr. Palumbo and Jane Parkin-Kullmann addressed questions regarding health risks. Daniela Hamann-Nazaroff addressed remediation-related questions. This style of question and answer proved to be very effective in addressing a wide variety of the audience's concerns, with 11 questions received during the meeting. The overall feedback from the attendees was positive.

The main questions and concerns expressed by the attendees were related to health risks, remediation/mitigation details, and the expected timeframes for the upcoming stages of investigation and cleanup.

In addition to the general public meeting, Santa Ana Water Board staff have been conducting community meetings to discuss the results of the human health risk assessments and draft feasibility study and remedial action plans, targeted at communities in specific geographic areas that overlie the soil vapor plume.

A total of eight separate community-specific human health risk assessments and five community-specific draft feasibility study/remedial action plans have been prepared for the former Ford site. To date, we have held meetings with all eight communities to discuss the risk assessment results for each specific community, and three meetings to discuss the details of community-specific feasibility study/remedial action plans. These community-specific meetings occurred from April 2021 through February 2022, and additional meetings are planned for the remaining community-specific feasibility studies.

The pace of the investigation at the former Ford site is proceeding in an expedited manner, with consideration for maintaining the integrity and quality of data. The next general public meeting, which will provide another project status update for the former Ford site, is tentatively scheduled for Summer 2022, and will be in a hybrid format. Staff will continue to keep the Board advised about this matter.

4. 2024 Integrated Report for the Santa Ana Water Board

Background: The federal Clean Water Act (CWA) gives states the primary responsibility for protecting and restoring water quality. Under CWA section 305(b), states are required to report biennially to the United States Environmental Protection Agency (USEPA) on the water quality conditions of their surface waters. The USEPA then compiles these assessments into their biennial "National Water Quality Inventory Report" to Congress. Under CWA section 303(d), states are required to review, make changes as necessary, and submit to the USEPA a list identifying waterbodies not meeting water quality standards and identifying the water quality parameter (i.e., pollutant) not being met (303(d) List).

The CWA Section 303(d) List of Impaired Waters and Section 305(b) Water Quality Assessment Report are combined into a single "Integrated Report" by the California Regional Water Quality Control Boards (Regional Water Boards) and the State Water Resources Control Board (State Water Board) (collectively, Water Boards) to satisfy the requirements of both sections of the CWA. The development of the Integrated Report is a collaborative process among the Water Boards.

The Integrated Report is developed in "cycles" with each cycle occurring every two years, on even numbered years. Each Integrated Report cycle consists primarily of assessments from the three Regional Water Boards that are identified as "on-cycle." The other six Regional Water Boards that are "off-cycle" may also assess new high-priority data and decide on new impairment listings or delistings for one or more

water segments. The 2024 Integrated Report is currently in progress and will be conducted for the “on-cycle” Regional Water Boards, which are the San Francisco Bay, Los Angeles, and Santa Ana regions. In total, a cycle takes three to four years to complete. Once a Regional Water Board has completed the data analysis process, Regional Water Board staff will prepare a Staff Report that includes recommended changes to the 303(d) List of impaired surface waterbodies, and, pursuant to CWA section 305(b), analyzes the extent to which all surface waters in the region are meeting beneficial uses. The State Water Board will review and compile each “on-cycle” Regional Water Board’s Staff Reports into the California Integrated Report for its Board approval before sending to the USEPA for final approval. Throughout the development of the Integrated Report, continued discussions and guidance are communicated amongst the Water Boards, with the State Water Board being the lead.

Water quality data are evaluated to determine if waterbodies contain pollutants at levels that exceed protective water quality standards and, thus, do not protect designated beneficial uses identified in state Water Quality Control Plans. If a waterbody exceeds the protective water quality standards, that waterbody is placed on the 303(d) List of Impaired Waters. In general, section 303(d) of the CWA requires each state to establish Total Maximum Daily Loads (TMDLs) for waters within its boundaries for which certain effluent limitations are not stringent enough to achieve applicable water quality standards. A TMDL is the maximum amount of a pollutant that a waterbody can assimilate while still meeting water quality standards. As part of a TMDL, the states will establish an acceptable Load Allocation (from nonpoint sources or natural background sources) and a Waste Load Allocation (from point sources), as well as numeric targets to address impairment issues and improve water quality. TMDLs are then included as requirements in permits and other regulatory approaches handled by such programs as stormwater and wastewater permitting. Stakeholders are legally and financially responsible for complying with the TMDL requirements.

Status: The 2024 Integrated Report is currently underway. Santa Ana Water Board staff from the Basin Planning – Inland Waters Section is assessing water quality data collected within the Santa Ana River Watershed. A notice of public solicitation of water quality data for the 2024 Integrated Report was posted by the State Water Board in June 2020. For data to be considered for the 2024 Integrated Report, stakeholders and Regional Water Boards needed to submit their data to the State Water Board via the California Environmental Data Exchange Network (CEDEN) by the October 2020 deadline. The Santa Ana Region received over 372,000 data entries. Between January and September 2021, Santa Ana Water Board staff reviewed the raw data, updated tables for analytes, objectives, and beneficial uses, and mapped sampling stations and waterbodies. Staff is currently writing and reviewing Lines of Evidence (LOEs) and will finish these LOEs in March 2022. An

LOE is a unique combination of a waterbody, beneficial use, pollutant, and assessment threshold and is used to make an assessment decision when compared to monitoring data. Over 5,300 LOEs will be created to assess waterbodies in the Santa Ana River Watershed this cycle.

Upcoming Tasks for the 2024 Integrated Report

- Decision development for 303(d) listings and delistings from March 2022 to October 2022
- Prepare draft Regional Water Board Staff Report by November 15, 2022
- State Water Board administered public comment period for the draft 2024 Integrated Report from February 2023 to April 2023
- State Water Board Hearing (public workshop) on March 23, 2023
- Respond to comments and revise the 2024 Integrated Report from April 2023 to November 2023
- State Water Board Meeting for consideration of adopting the 2024 Integrated Report on December 19, 2023
- Submit the 2024 Integrated Report to USEPA for approval by February 21, 2024